

October 7, 2004
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— REMARKS —

The present response replies to a Second Non-Final Office Action mailed July 7, 2004. Claims 1-28 are pending in the application.

Examiner Perez has rejected claims 1, 4, 5, 13, 14, 20-22, 25, 27 and 28 under 35 U.S.C. § 102(b) as being anticipated by *Takayama* (U.S. Patent No. 5,442,807). The Applicant has considered Examiner Perez's remarks concerning the patentability of claims 1, 4, 5, 13, 14, 20-22, 25, 27 and 28. To warrant this anticipation rejection of claims 1, 4, 5, 13, 14, 20-22, 25, 27 and 28, the present invention must have been described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent. The 102(b) rejection is traversed.

Independent claims 1, 13 and 20 require "scanning a plurality of control channels of a carrier", "measuring a signal strength of each control channel", "selecting a second control channel of the carrier", "requesting service access on a first control channel of the carrier based on the signal strength", "receiving a blocked signal indicating no availability of a voice channel on the first control channel of the carrier", and "selecting a second control channel of the carrier in response to the blocked signal, based on the signal strength". The aforementioned limitations are based on a carrier having multiple control channels, and *Takayama* teaches away from these limitations by teaching each cell site station (i.e., carrier) as having only one control channel. See, Takayama at column 3, line 45 to column 4, line 9. As such, by design, *Takayama* must select a control channel of a second carrier in response to a blocked signal related to a control channel of a first carrier as opposed to selecting a second control channel of a carrier in response to a blocked signal related to a first control channel of the same carrier as required by independent claims 1, 13 and 20. Thus, *Takayama* is no more than cumulative to the prior art illustrated in FIG. 2 of the present application.

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Withdrawal of the rejection of claims 1, 4, 5, 13, 14, 20-22, 25, 27 and 28 under 35 U.S.C. § 102(b) as being anticipated by *Takayama* is therefore respectfully requested.

Claims 2 and 3 were rejected as unpatentable over *Takayama* in view of *Deni* (6,553,229). The rejections of claims 2 and 3 are traversed. Claims 2 and 3 depend from claim 1, and are therefore allowable over claim 1 for at least the same reasons. Any claim depending from a non-obvious claim is also non-obvious. See MPEP 2143.03 and *In Re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (where an independent claim is non-obvious, any claims depending therefrom are also non-obvious.) Withdrawal of the rejection to claims 2 and 3 is requested.

Claims 6, 7, 15 and 23 were rejected as unpatentable over *Takayama* in view of *Raith* (6,073,005). The rejections of claims 6, 7, 15 and 23 are traversed. Claims 6, 7, 15 and 23 depend from allowable independent claims, and are therefore allowable over *Takayama* in view of *Raith* for at least the same reasons. Withdrawal of the rejection of claims 6, 7, 15 and 23 is requested.

Claims 8-10 and 16-18 were rejected as unpatentable over *Takayama* and *Raith* in view of *Dutta* (US20020137489). The rejections of claims 8-10 and 16-18 are traversed. Claims 8-10 and 16-18 depend from allowable independent claims, and are therefore allowable over *Takayama* and *Raith* in view of *Dutta* for at least the same reasons. Withdrawal of the rejection of claims 8-10 and 16-18 is requested.

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SUMMARY

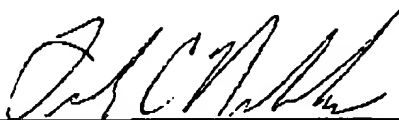
The Applicant respectfully submits that claims 1-28 as listed herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain at issue that may best be resolved through a personal or telephonic interview, the examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: October 7, 2004

Respectfully submitted,
STEVEN P. SCHWINKE

GENERAL MOTORS CORPORATION
General Motors Legal Staff
Mail Code 482-C23-B21
300 Renaissance Center
P.O. Box 300
Detroit, MI 48265-3000
Phone: (313) 665-4714

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicant